

GERARD A R. 12. 16.

REPLY

TO AN

ANSWER

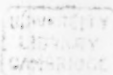
To the DEFENCE of

AMICIA,

Daughter of

HUGH CYVELIOK

EARL of Chester.



Wherein it is Proved,

That the REASONS Alledg'd by
Sir Peter Leicester,

In his former *Book*, and also in his said
Answer, concerning the Illegitimacy
of the said *Amicia*, are invalid,
and of no weight at all.

By Sir Thomas Mainwaring of Deobert
in CHESHIRE, Baronet.

London, Printed for S. Lowndes over against
Exeter-House in the Strand. 1673.

OLD

W. S. M. A.

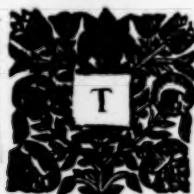
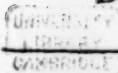


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T O
S, PETER LEICESTER,
B A R O N E T.



He Reasons which you
and I have alledged
for and against *Ami-*
cia, being now made
publick, all Persons
may easily judge,
whether, (as you be-

lieve) it was onely the zeal of my o-
pinion touching her Legitimacy, which
caused me to endeavor to incline the
world to concur with me therein, or
that what I said was supported with
just Grounds and Reasons; and I
doubt not but those of our County
that are understanding Persons, will
as easily discern from some of your
omissions, (although I forbear pub-
lickly to take notice of them) that it

was something else besides your great love to Truth (pretended by your alledging the old Rule of *Aristotle*,) which occasioned you thus to asperse your deceased Grandmother. But however things are, you have no reason to suspect any animosities betwixt us, I having in my first Book (as I hope I shall also do in this) endeavoured to avoid all expressions, which I did conceive might be offensive, and I am confident you have no just cause to be angry with me, for endeavoring to defend a deceased Grandmother whom I suppose to be very much injur'd by you.

I know not how far your memory may fail you therein, but I am sure I have several times moved you (and particularly came once purposely to you to *Tabley*) to desire that you would be contented to deliver what you did conceit concerning *Amicia*, as an uncertainty onely, (as you had done that of *Roger*, Son of *Hugh Cyvelioh*) and did at all those times assure you that if you would so do, and withal, express that some *Judges* and *Heralds*

rals were of a different judgement from you, that I would never trouble you or the Reader with any Lines of mine. And the reason why I desired you thus to do, was, because the Reader would certainly conclude *Amicia* to be a Bastard, though no reasons were alledged, if he saw one who was descended of her, to declare her illegitimate in Print, and did not know that some Learned Men were of a different opinion; but I could not possibly prevail with you herein. And although what you alledge be true, *that there is no medium betwixt being a Bastard and Legitimate, but that a Man must absolutely be the one or the other,* yet, as to the Writer of an *History*, the case may be different; for he may be certain, that some, concerning whom he writes, may be Legitimate, and others may be Bastards, and accordingly he ought so to place them; but it is possible there may be some which he is uncertain, whether they be Bastards or not; and in that case the Historian ought to express it doubtfully, and not to take upon him absolutely to determine the point upon uncertain grounds.

As to your saying in the fourth page of your Answer, in the Margent, that you apprehend not why I call Sir Ralph Mainwaring, Chief Justice of Chester, when in those Ages there was only one Judge at a time there.

My reason wherefore I so did, was because I found that *Reginald Gray*, who was Judge of *Chester*, had taken unto him as an Associate, *Ralph Hegham*, in the thirteenth year of King *Edward the I.* as appears page 172. of your *Historical Antiquities* : as also, because I found in your said Book, before the time of Sir *Ralph Mainwaring*, two Deeds of *Randle de Gernoniis*, (which seemed to imply, that there had been sometimes more Justices of *Chester* than one at a time,) the one of which as appears, page 128. was directed, *Constabulario, Dapifero, Baronibus, JUSTICIARIIS, &c.* and the other, as you may see, page 160. was directed, *Episcopo Cestriae, Dapifero, Baronibus, JUSTICIARIIS, &c.* so that I hope, I am justifiable herein.

And though it was not usual till after ages, to have two Justices of *Chester*

ster at one time, and that I have not yet found, that in the time of *Ralph Mainwaring*, there was any Justice of *Chester*, but the said *Ralph*, yet it being possible for the reasons aforesaid, that there might be more than one at a time; I did therefore call the said *Ralph*, Chief Justice, to shew if there were then two, that he was the chief of them, because he acted as Justice of *Chester* alone, as will thus appear from a Roll of antient Charts, called *Doomesday*, remaining in the Castle of *Chester*, amongst the Records there.

Lenca quæ fuit uxor Ranulphi de Kingesleigh veniens in pleno Com. Cestrie coram Radulpho de Mainwaring tunc Justiciario Cestrie & Baronibus, &c. quiet. clam. Richardo de Kingesleigh totam villam de Bertherton unde dotata fuit.

And whereas you pretend page 4 and 5. of your Answer, (which is the onely example which you bring to prove what you there alledge) that *Geffrey de Dutton*, who made the Original Deed of *Nether-Tabley* had this

word *Domino*, sometimes prefixed to his Name, when he was a Witness, and yet was no Knight; and thence would inferre, that the word *Dominus* is no sure rule, to be always understood of a Knight. I shall before I give an answer unto what you say, transcribe the said Deed out of your *Historical Antiquities*, as I find it in the 355 page of your said Book.

Sciant presentes & futuri, quod ego Galfridus de Dutton dedi & concessi & hac presenti Charta mea confirmavi Margaretae filiae meae, pro homagio & servitio suo totam villam meam, quae vocatur Parva-Tabley, sine ullo retenemento, cum Homagiis & Servitiis, cum Villenagiis, cum Boscis, cum Planis, cum Pratib, & Pascuis, cum Moris & Mariscis, cum Aquis & Molendinis, cum Viis & Semitis, cum omnibus locis praedictae Villae pertinentibus: Tenendam & habendam sibi Margaretae, & Heredibus suis, de me Galfrido, & Heredibus meis, liberè quiete, & pacificè, cum omnibus libertatibus, & Asylamentis praedictae villae pertinentibus: Faciendo inde mihi forinsecum servitium, quantum pertinet ad
duas

duas Bovatas terræ,, unde triginta Bovata Terra faciunt Feodum unius Militis, & faciendo servitium de Hauthoner quantum pertinet ad prædictam villam, pro omni seculari servitio, consuetudine, & demanda, mihi & Hæredibus meis perti-
nente. Et ego Galfridus & Hæredes mei prædictam villam, ut prædictum est, prædictæ Margareta & hæred. suis, contra omnes homines & feminas in perpetuum warrantizabimus. Et ad majorem hujus rei securitatem huic præsentî scripto Sigillum apposui meum. Hiis Testibus, Domino Thoma de Dutton, Domino Galfrido de Dutton, Hugone de Lymme, Thoma fratre ejus, Ricardo de Aston, Rogero de Toft, Willielmo de Waleton, & multis aliis.

Now this Geffrey de Dutton, being that person who did give Little-Tabley, (now called Nether-Tabley, and the principal Seat of your Family) unto Margaret his Daughter and Heir, who first was married to Robert de Denbigh, and afterwards to Sir Nicholas Leicester, and so brought Nether-Tabley unto the Leicesters; A Man would think that you should be very well acquainted with all the Deeds that the said Geffrey made, which are in your custody, and
yet

yet I doubt not but to make it appear, that you have run into several very gross errors, concerning that *Geffrey de Dutton*, who made the said Deed; For first, page 4 and 5. of your Answer, you tell us (which is but your own fancy) that the word *Dominus* was applied to the better sort of Gentlemen in those ages who were no Knights, and that in those elder Ages it was sometimes prefixed, and oftner omitted even to the same Men; as *Domino Galfrido de Dutton*, who in the Original Chart of Nether-Tabley writes himself only—*Ego Galfridus de Dutton dedi, &c.* and several other Deeds you have seen of the same person (who you say was lineal Ancestor to Warburton of Arley) wherein you dare affirm among the Witnesses subscribed, he hath five times and more the word *Dominus* omitted, for once that we find it prefixed to his name; and you are very confident, was not in him, as many others also, to be construed any more then Master *Geffrey Dutton*, and that he was no Knight;

To answer which, I shall thus far agree with you, That I believe the said
Geffrey

Geffrey Dutton (Son of *Geffrey*, Son of *Adam*) who made the said Deed of *Little or Nether Tabley* was no Knight, But I cannot imagine how it is possible that the said *Geffrey de Dutton* to that or any other Deeds of his own, could have his Name either with the word *domino*, or without, either five times for once, or at all, amongst the witnesses subscribed, unless you fancy, that he was a Witness to his own Deeds, which is as gross a thing as I have known; But besides this, you run into another error, and when you do indeed find the word *dominus* prefixed to the name of *Geffrey de Dutton* as a Witness to other Mens Deeds, you will needs have that *Dominus Galfridus de Dutton* to be him, who made the said Deed of *Nether Tabley*, whereas it was not he, but his Father, as I shall presently make very manifest; For it is clear that you have seen no deed made by any *Geffrey de Dutton*, in which the word *dominus* is used by the party himself, because, you tell us p. 5 & 6. (but erroneously also, as will anon appear) that the word *dominus* is never used in old Deeds by the party himself,

but

but where it is joyned with another word, as *Ego Willielmus Manwaring Dominus de Pever, Ego Robertus dominus Moaldia*; and also, p. 5. you onely speak of his Name being subscribed as a Witness, so that all the Proof which you have of a *Dominus Galfridus de Dutton* is from his being called so by other persons in other Mens Deeds: Now, it appearing in your *Historical Antiquities*, page 250. that *Hugh de Dutton*, Son of *Hugh*, Son of *Hodard*, had a second Son named *Adam de Dutton*, (from whom you say the *Warburtons* of *Arley* are descended) and the said *Adam de Dutton* as appears in your said Book, page 384. having issue a Son owned by you to be *Sir Geffrey Dutton*, which *Sir Geffrey*, as you confels, page 354 & 355. had issue *Geffrey Dutton*, who made the said Deed of *Tabley*, the said *Sir Geffrey Dutton* the Father being then living, and a Witness to the said Deed, you when you find a *Dominus Galfridus de Dutton* to be a Witness to any Deed, will not own it (as you ought to do) to be *Sir Geffrey Dutton* Son of *Adam*, who indeed was a Knight, but you will have it to be *Geffrey Dutton* the

the Grandson of *Adam*, who was no Knight ; But though perhaps you may by such devises as these, impose upon some silly Readers, yet certainly no intelligent person will believe what you say concerning the same.

Also, I might here ask you, whether the word *Dominus* when it is prefixed to the name of a person, who is not a Clergyman, doth prove him certainly to be a Knight, or not ? If it do, Why will not you call every Layman a Knight, that hath it so prefixed ? and if it do not, Why do you in your *Historical Antiquities*, p. 330. & 332. own Sir Thomas Mainwaring of Warmincham, upon the like proof, to be a Knight ? And Why (as appears in the 8 Page of your Answer to my Defence of *Amicia*) did you fully intend to have called Ralph Mainwaring, Roger Mainwaring and William Mainwaring, all Knights, but that you know not by what fate it was forgotten ? And, Why do you all along in your later Book acknowledge them to be Knights ?

And whereas you say, p. 5 & 6. that, the word *Dominus* is never used in old Deeds, by the party himself, but when it is
joyned

joyned with another word, as Ego Wilhelmus Mainwaring Dominus de Pever, Ego Robertus Dominus Moaldia, but is only used when the party is subscribed as a witness; Though that be true for the most part, yet it doth not alwayes hold, as will appear by two Deeds of Sir Thomas Mainwarings of Warmincham, which I have by me, sealed with two Barres in Green-wax, written about thus, *S. Tome le Maynwarig*; which Deeds you have seen, and are as followeth;

Sciunt presentes & futuri quod ego Dominus Thomas de Menylgaring dedi concessi & hac presenti carta mea confirmavi Hamoni filio Johannis de Bruerio pro homagio & servitio suo quinque acras terra in Villa de Cogisbull, illas, scilicet, quas de me prius tenuit ad terminum, cum aumento perficiendi quinque acras integras sine impedimento, & sicut sepe fosfato metis & bundis circueuntur & continentur, & cum omnibus aliis pertinentiis suis, & pro tribus marcis & dimid. argenti, quas mihi dedit pramanebus: Habendum & tenendum de dicto Domino Thoma & heredibus suis, dicto Hamoni & heredibus suis & assignatis,

natis, libere, quiete, integre, hæreditarie,
 imperpetuum, in bosco, in plano, in pra-
 tis, in pascuis, in viis, in semitis, in
 aquis, in moris, in omnibus communibus,
 & assumentis Villæ de Cokishull ubique
 pertinentibus : Reddendo inde annua-
 tim dicto Domino Thome & hæredibus
 suis duos solidos & sex denarios ad duos
 anni terminos, videlicet, ad Nativita-
 tem Sancti Johannis Baptistæ quindec-
 cem denarios, & ad festum Sancti
 Martini in yeme quindecem denarios pro
 omni servitio seculari, exactione & de-
 manda mihi & hæredibus meis pertinen-
 tibus : Et ego vero dictus Dominus
 Thomas & hæredes mei dicto Hamoni
 & hæredibus suis & assignatis totas præ-
 dictas quinque acras terræ cum omnibus
 pertinentiis suis sicut prænotatum est con-
 tra omnes homines & fæminas waran-
 tizabimus & defendemus imperpetuum. In
 hujus rei testimonium huic præsentī cartæ
 sigillum meum apposui, Hiis Testibus,
 Hugone de Duram, Willielmo Bernard
 tunc Sereeschallo domini Thomæ de Men-
 nylgaring, Richardo Starkye, Rober-
 to de Wynninton, Ranulpho de Ber-
 thorton, Thoma de Queloc, Johanne
 de Merbury, Rogero clerico, & aliis.

Sciant

Sciant presentes & futuri quod ego
 Dominus Thomas de Menylgaring de-
 di concessi & hac presenti carta mea
 confirmavi Roberto de Bexeckne pro
 homagio & servitio totam illam terram
 quam mercatus fuit de Hugone de Ber-
 deney sicut sepe & fossato circuitur &
 includitur & metis & bundis continetur
 cum omnibus pertinentiis suis: Haben-
 dum & tenendum de me & heredibus
 meis & assignatis dicto Roberto & hæ-
 redibus suis & assignatis, libere, quiete,
 integre, hereditarie, in pace, bene, in
 bosco, in plano, in aquis, in viis, in se-
 mitis, in pratis, in pasturis, cum hous-
 bold & haybold, & tacsre, de omnibus
 propriis porcis suis infra omnes metas de
 Cokisbull, & cum omnibus aliis commu-
 nibus & esyamentis prædictæ villæ spe-
 ctantibus: Reddendo inde annuatim mi-
 hi & heredibus meis & meis assignatis
 quindecim denarios argenti ad duos anni
 terminos, videlicet ad nativitatem
 sancti Johannis Baptistæ septem denari-
 os & obolum & ad festum sancti Marti-
 ni in yeme septem denarios & obolum
 pro omnibus servitiis secularibus exactio-
 nibus & demandis prædictæ terræ per-
 tinentibus,

zinentibus: Et ego vero Dominus Tho-
 mas de Menilgaring & heredes mei &
 assignati mei dicto Roberto & heredibus
 suis & assignatis totam prædictam ter-
 ram sicut sepe & fossato circuitur & in-
 cluditur, & sicut prænotatum est contra
 omnes homines & feminas imperpetuum
 warrantizabimus & defendemus: Pro
 hac autem donatione concessione & car-
 tæ meæ confirmatione dedit mihi dictus
 Robertus quatuor solidos argenti præma-
 nibus: In cujus rei testimonium huic
 præsentī cartæ sigillum meum apposui:
 Hiis testibus, Richardo Starkey, Williel-
 mo Bernard tunc Seneschallo Domini Tho-
 mæ de Menilgaring, Johanne de Mer-
 bury, Hugone de eadem, Hugone fi-
 lio Hamonis de Comberbach, Ad. de
 Aſton, Roberto de Burwys, Rogero Cle-
 rico, & aliis.

And as to what you say, page 8.
 of your Answer, that as the word Sir,
 is in common discourse applicable to per-
 sons of quality from the highest to the low-
 est in its larger notion, so Dominus is
 applicable to any Knight or Gentleman,
 as if you should say, Domine quæso, num
 hoc verum est quod dico, necne?

I grant it to be true, but then as you observe, the word *Sir*, or the word *Dominus* must onely so be taken in its larger action, but that is so far from weakening what I say, that it doth confirm it; For though if I speak to one whose name is *Peter*, that is but a Gentleman, I may properly use the word *Sir* to him, yet I cannot properly joyn the word *Sir* to his name, and call him *Sir Peter*, unless the said person be either a Baronet or a Knight, and that is the case in these old Deeds, where the word *Dominus* is prefixed to the names of the said Knights.

Also, if the word *Dominus* do only signify *Master*, (as you would have it) What is the reason, that in some Deeds it is only put before the names of some of the witnesses, and not before the names of others? although those other persons to whose names it is not put, many times are Lords of several Mannors, and persons of very great Estate.

As to what you alledge, page 6. of your *Answer to my defence of Amicia*,
that

that in the 27 page of my said *Defence*,
Radulfus de Meidnilwaring after his
Daughter Bertrey was marriageable is
 there named without his Title of *Domi-*
nus ; You your self have answered that
 a little before, by confessing (though
 the word *Domino* is usually set to the
 name of such a person when he is na-
 med a witness) that the word *Domi-*
nus is never used by the party himself,
 but where it is joyned with another
 word, as *Ego Willielmus Mainwaring*
Dominus de Peover , *Ego Rogerus Do-*
minus Moaldie , which though for the
 most part it be very true, yet I have
 shewed that it doth not ~~ever~~ hold;
 But instead of observing that you had
 given a full answer to this objection
 of your own, you strangely fancy, that
 I would possibly say , that that Deed
 was made before the said *Ralph* was
 Justice of *Chester* ; whereas in the 74
 page of my said Book, I had told you,
 that the said Deed was so far from be-
 ing made before the said *Ralph* was Ju-
 stice of *Chester*, that it was made after
 he had parted with the said Office ;
 And thus you became guilty of a dou-
 ble levity, first, in making an objecti-
 on,

on, which you your self had answered but in the preceding page, and then in framing an answer thereto for me, directly contrary to what I had formerly said.

And whereas you say, page 8. that *you had rather give to any, especially to my Family, more then is due, then less*; I could wish I had just cause to be of that opinion; For I am sure you have omitted in our Descent, not only *Ranulfus*, who is nominated in *Doomesday Book*, but also *Rickard Mesnilwaren* mentioned in your *Historical Antiquities*, ~~██████████~~ *Roger de Menilgarin*, and

* page. iii.

* Note. That page. 117. of your *Historical Antiquities*, you have placed *Randle* before *William*, contrary to what you have done *Pa. 341.* and contrary to *Monasticon Anglicanum. Par. I. Pa. 985.*

* *William* and *Randle* his Sons, spoken of by you page 341. *Roger de Menilgarin* or *Mainwaring*, named by you page 362. *Sir Ralph Mainwaring* and *Sir Roger Mainwaring* his Son, both taken notice of by you *pa. 330.* and this upon a pretence, that they were Lords of *Warmincham*, whereas I am confident you will not deny but that the *Mainwarings* of *Warmincham* were also owners

owners of *Over-Peover* or the most part thereof, until Sir *Roger Mainwaring* gave *Peover* to his younger Son Sir *William Mainwaring*, and it was not long after, that the *Mainwarings* of *Peover* became Heirs male to those *Mainwarings* of *Warmincham*, Sir *Warine Mainwaring*, Son of Sir *Thomas*, Son of the said Sir *Roger*, dying without issue Male; Also I am sure you denied to do us right in one other particular, when you did it in the like case for another Family, which had not so clear proof for it as mine had.

As for your new quarrel, (page 9 of your Answer) with the Herald, for giving to Sir *Randle Mainwaring* my great Grandfather six *Barrulets*, as his most proper Coat, whereas you say, ever since the time of Sir *Roger Mainwaring*, as well the Heirs of the right Line as also the *Mainwarings* of *Peover* (after they became next Heirs Male) have constantly born the two barres, for some hundreds of years; I might reply and tell you, that the *Mainwarings*, of *Peover* have not constantly given, *Argent*, two *Barres Gules*, since they became Heirs Male to the *Mainwarings* of *Warmin-*

cham, as appears by my Deeds; Neither do I think that Mr. *Cambden* did look upon the *Six Barrulets*, as a Coat most peculiar to us; for, in his *Britannia* in his Description of the County of *Chester*, he names the *two Barres* as the Coat most proper to our Family, as appears by these words of his, when he writes of *Astbury Church*, viz. *Hæc enim perpulchra est, cujus porticus Occidentalis ipsam Ecclesiam, quæ sane alta, sua altitudine adæquat, & pyramidem adjunctam habet. In cæmeterio duæ jacent sepulchrales Militum effigies, in quorum scutis sunt duæ directæ arcolæ sive Barræ. Verum cum coloribus suis destituantur non facile quis dixerit fuerintne ex Breretonis, Mainwaringis, vel de Venables, quæ clarissimæ sunt in vicinia familiæ, & ejusmodi Barras variantibus coloribus gentilitiis in clypeis gestant.*

I rather think that my Great Grandfather having a Fancy to that Coat of *Six Barrulets* more than to that of the *two Barres*, because the most antient of our Deeds were sealed therewith, that Mr. *Cambden* gave him liberty to bear either the one or the other, which I
see

see not but it might be done, being our Family had for several generations usually born the one, and the other had been born by our Ancestor, and had never been used by any other Family, and I am sure, though you be so captious with us, that you your self have of late years given a different Crest, from what had for a long time been born by your Predecessors, because you found a more antient Crest in some of your Seals: And whereas you instance *in the great Suit, betwixt Scroop and Grosvenour in the Marshalls Court, under Richard the II. concerning the bearing of a Coat of Arms, whereto both challenged a right and propriety by usage, but no other way;* You thence rightly infer, that usage makes a right in such cases; but when you say, that *usage only makes a right;* you are mistaken therein, For (not to mention the case in hand, where a mans Ancestor hath born a Coat, which for sometime hath been laid aside, but never taken up by any other Family) a Man could then have no right to a Coat, which was given him by a King of Arms.

I am still of opinion, that you have branded several persons in your Book with Bastardy, without any proof thereof, but shall not yet concern myself for any (besides my own Ancestor) except such as you give me just occasion to take notice of; And as for *Geva* and *Richard Bacun's* Mother, the first of them is not yet by you proved to be a Bastard, and I shall certainly hereafter make it appear, that the second was no Daughter of *Hugh Cyveliok*, so that *Amicia* is like to receive no blow at all; And if they were both Bastards, it would be no prejudice to *Amicia*, because I have in my former Book fully proved, that the gift to *Geva* was not a Gift in Free-Marriage, (as that to *Amicia* was) and you do not pretend at all, that any such gift was made to the Mother of *Richard Bacun*.

And whereas you tell me *you believe that Geva and the wife of Bacun had never been spoken of, nor suspected, nor doubted of by me, had not the case of Amicia been concerned* I can assure you
I should

I should have been of the same opinion concerning them, if you had never mentioned *Amicia*; but if you had not pretended from their Cases, to raise some Arguments against the said *Amicia*, I should never have troubled my self about them, and therefore I forbear to tell you of all mistakes, except such as the case in hand doth give me just occasion to observe. And whereas you say, page 12. that *you think you shall make good what you have alledged, with as much certainty as the nature of the thing and times will admit.* And also page 27. that *Geva was certainly a Bastard, by as good proof as can possibly be expected in such a case;* You do thereby implicitly confess, that you do not make those things appear with any certainty at all.

I have now done with what you have said concerning my *Epistle*, and shall now proceed to consider of your *Answer* to the Book it self; and because you do in several places, again say, what you have said heretofore, I hope the Reader will excuse me, if I be constrained sometimes to repeat the same things

things, which I also have formerly said.

In the 14 and 15 pages, you do tell me that I said I would remind you of that which you had formerly been told, *viz.* Who those *Heralds* were that gave to *Mainwaring* of *Peover* the quartering of the Earl of *Chester's* Coat, in Queen *Elisabeth's* time, and withal do say, that *I never told you, till long time after that part of your Book was written*, which, perhaps may be true, because that part of your Book was written very long since, *viz.* in the year 1647. but I am sure I have often told you of them, and you have also often seen the *Pedigree* it self, under the hands of Mr. *Cambden*, and Mr. *Sampson Erdeswick*; the rest in that place is only the repeating of your former quarrel with them, for suffering us to quarter the Earl of *Chester's* Coat, but if we can really prove, that we are of the Half Blood, whatever you conceive of it, I suppose all indifferent persons will think it but meet, that we should have the like liberty that all others have in the like case, in these last ages of ours.

What

What you say in the 16 and 17 pages, hath been some of it formerly said in your *Historical Antiquities*, and also in the 15 page of this your *Answer*, and there is nothing there that is new, but that you only alledge, that *as to my note of Dukes and Earls to have been antiently Judges of Chester, I should have distinguished the times, for that was not till the Reign of Richard the II. (who made Deputies to act in their stead) before which time there were no such great persons Judges there, nor from Henry the Seventh's time downwards;* But what necessity there was for me particularly to distinguish the times in which those great Dukes and Earls were Judges of *Chester*, I do not know; For I only instanced in that to shew, that the place of *Judge of Chester* was antiently a place of great repute, and though it was sometime after the death of *John Scot*, before any such great persons were made Judges of *Chester*, by the Kings of *England*, and that in all the times of the Earls of *Chester*, before that Earldom was united to the Crown, there could not be any Dukes or Earls made Judges

Judges there, because there were no such persons belonging to the then Earls, (except *John Lacy* Constable of *Chester*, who was not made Earl of *Lincoln*, as appears in your *Historical Antiquities* page 270. till the 23 of November 1232. which was but four years and upwards before the death of *John Scot* the last of the said Earls) yet there were ever antiently persons of good quality that were Judges of *Chester*, and if it had not been always a place of great repute, the Kings of *England* would never have made such very great persons to have succeeded them therein.

As to what you alledge in the 18, 19, 20, and 21 pages of your *Answer*, I do not doubt (though you affirm it can never be proved) but that I have already in my former Book, given most persons satisfaction, that *Amicia* was of the Half-Blood to Earl *Randle*, by a former wife of Earl *Hugh*; And whereas you object, that it is more rational to imagine, that *Earl Hugh* matching his only Daughter, which he had by a former Wife, would have married her to as considerable a person as was either provided

vided by himself, or his Son for his younger Children by a second venter; I do answer and say, That I am not certain whether *Amicia* was the only Daughter that Earl *Hugh* had by his former Wife; because, I know some that pretend they can tell of some other Daughter or Daughters which the said Earl *Hugh* had by his said Wife; but I do confess, I have never seen just proof of any but her; but supposing her to be the only Child by his first Wife; I have in my former Book, pa. 23, 24, and 25. shewed that there is no strength in this Argument of yours; And I may here further add, that if you will search for examples, you may find very many, where the elder Sisters, sometimes, because swayed by their affections, and sometimes for other reasons, have not been married to so great persons as the younger Sisters have been; neither can you tell what portions Earl *Hugh* gave to *Amicia*, or to any of his other Daughters: neither is there any necessity that the elder Sister, because by a former wife, must have as great a portion as a younger Sister by a latter

latter Wife; because, many times persons are not able to give so great portions in their younger days, as afterwards: and because, the Children of the living Wife are oftentimes better provided for, than those of the dead Wife; and of this, I could if I pleased, instance in some that I know; and in case the Father dye, and leave one-ly issue Female by a first, , and a Son and issue Female by a latter wife (as in this case) there is great likelihood (besides the advantage that the Sisters by the latter wife would have by being Heirs at Law to their Brother, he dying without issue) that the Brother will naturally be more kind to those Sisters that are of the Whole-Blood, and about the same age, and bred up with him, than he will be to her that is but his Half-Sister, and much older then himself.

And whereas you say, pa. 18, and 19. that *the expectation of Earl Randle Blundevile's Sisters of the Whole Blood (which I conceive added to their fortunes, whereby they matched to so great persons) could not be much, being groundd upon great*
uncer-

uncertainties, since it could not be fore-
 seen (when they married) that their Bro-
 ther should dye without issue, who after-
 wards married two wives successively,
 purposely to have issue of his own Body,
 to inherit his own Lands ; I do think if
 you consider it, you cannot in good
 earnest believe, that the said Earl Ran-
 dle Blundevill's four Sisters were marri-
 ed before the said Earl married his
 first wife, whatever they were when
 he married his second wife ; For, Ber-
 tred the Mother of Randle Blundevill be-
 ing aged but twenty four years when
 her Husband Earl Hugh died, as ap-
 pears, *Rot. de Dominabus pueris, &c:*
in Scacc. penes remem. R. sub Tit. Linc.
Rot. 1. and the said Randle, as appears
 in your *Historical Antiquities*, page 146.
 being married to Constance the Widow
 of Geffrey, fourth Son of King Henry
 the II. and Daughter and Heir of
 Conan Duke of little Brittain, and
 Earl of Richmond, in the year
 1187. at which time the said Bertred
 was but about Thirty years old ; Can
 any one think that all the five Chil-
 dren of the said Bertred were then mar-
 ried ?

And

And whereas you say, that it was I who informed you of the three eminent Judges, and four Heralds that were of opinion, that *Amicia* was Legitimate: If your meaning be, that I was the only person who informed you thereof, I must impute it to the weakness of your memory, which fails you in this particular; For, you had many times seen our *Pedigree*, attested by Mr. *Cambden* and Mr. *Sampson Erdeswick*, who did allow her to be a *Legitimate Daughter*, and several years since, two other Heralds, who are yet living, at *Chester* did declare to you in my hearing, that she could not be a Bastard, and the one of them then named to you a *Chief Justice of the Common Pleas*, and a *Lord Keeper of the Great Seal of England* (both now deceased) who did concur with them therein, and you have also seen an opinion of a Third, Judge under his Hand, together, with Reasons for the same, and though you speak so slightly of the opinions of Judges and Heralds, in comparing them to Hands got to a *Petition or Certificate*, and pretend it was without bearing

ing the Reasons on the other side; I very well know (though it seems you have forgotten it) that that hand which was obtained, was procured, because you seemed to desire to know his opinion in the case; And I also know that those two Heralds, who at Chester did declare their judgements against you, did then hear all the reasons that you could then alledge.

As to what you say, pa. 22, 23, 24, 25, 26, and part of the 27, in all which you would willingly prove, that the Common-Law is now altered some other way than by Statute, you do but lose your labor, and can never prove the same; For, in that *Maxime* of the Law, where it is said, *That whatsoever was at the Common-Law, and is not ousted or taken away by any Statute, remaineth still*; the words *ousted or taken away*, must needs be taken conjunctively, and must necessarily bear this sence, *that the Common-Law still is the same in all points, as it was before, except where taken away by Statute*; and if those words should be taken otherwise, then, the meaning

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would

would be this, *that that part of the Common-Law which doth remain, doth remain*, which would be a very strange *Maxime*; And whereas you heretofore urged some places, to prove, that the Common-Law is alter'd at this day from what it was in former ages, long after the time of King *Henry the II.* which you now also urge again in the 24 page of your latter Book; I must give you the same answer which I formerly did, *viz.* That those places do not prove that the Common-Law at this day doth vary from what it was in former ages, in any particular, but onely that it was taken to be otherways in those days, and that it was but just like some Cases in our *Reports*, which have at several times been adjudged directly contrary to each other; but notwithstanding that, the Common-Law was still the same; And that I might come as near you as I could; I did then acknowledge that though the Common-Law was ever the same, where not alter'd by Parliament: yet in former ages, they did in some particulars, take the Law to be otherways than they now do; And I did also ac-
know-

knowledge, that if you could prove, that they had done so formerly in this case of *Frank-Marriage*, that it would have taken off much of the strength of my Argument from the words *in libero Maritagio*, because, that antient Deeds and Grants (according to what my Lord *Coke* on *Littleton* says, fol 8. b. at the bottom) are to be expounded as the Law was taken to be at the time of the Grant: Now these places which you alledge, do not prove a change of the Common-Law, in any particular, other than by Statute, but only that the Law was sometimes differently taken in one Age, from what it was in another Age; for in your 24 page, where you cite *Coke* upon *Littleton*, fol. 34. sect. 39. you do not there say, that my Lord *Coke's* words were, That the Law was different in *Glanvile's* time in the particular you there mention, from what it is now; but you say, that he saith that in antient times, as it appears by *Glanvile*, lib. 6. cap. 1. it was taken (that is, the Law was taken) that a Man could not have endowed his Wife, *ad Ostinum Ecclesie*, of more than a third part, but of less

be might: but at this day the Law is taken, (as Littleton holdeth, which is) That a Man may Endow his Wife ad Ostim Ecclesiæ of his whole Land, or of the half, or other less part, which is the very same thing that I said; And where you again cite Coke upon Littleton, fol. 8. a. towards the bottom, you bring him in, saying, that of antient time the Heir was permitted to have an action of Debt upon a Bond made to his Ancestor and his Heir, but the Law is not so at this day; but my Lord Coke doth not say as you do, viz. That the Law is not so at this day, but that the Law is not so holden at this day; so that he still avoids the expression of the Law being changed. (otherways than by Statute) although it was differently holden in several Ages; And thus, as you may see Coke upon Littleton, fol. 21. b. in the Case of Piers de Saltmarsh and others, it was judged in King Edward the Thirds time, and in King Edward the Fourths time, That a Man might give Land to his Son in Frankmarriage, but in King Henry the Eighths time, it was holden otherways, the former Books being not remembered; But not-

notwithstanding, that this point was judged thus differently, the Law was still the same and all that can be said, is, that some of the Judges did not judge right, according to the Common-Law ; and indeed if this Rule of yours was true, that because the Judges in one Age did take the Common-Law to be otherways, than it was taken in former Ages, that therefore the Common-Law was changed : The Judges then could never do contrary to the Common-Law, For, when they had declared (though erroneously) that the Common-Law ought to be otherways taken, than it was formerly, the Common-Law by your Rule, would be thereupon changed, and what they did, would ever be legal, The absurdity whereof every one may easily discern.

What you say page 27, 28, 29, 30, and 31. to all those Reasons which I did give, to shew that whensoever the word *Mulier* is used in the case of Frankmarriage, it shall by common-intendment be understood of a Woman that is of the *Kindred*, will, (I believe)

give no knowing person any satisfaction at all; for though you pretend your self to be very pleasant, when you say you have *seldom known* (nor you believe any other) any such question as *this*, Whether Hugh Cyveliok had a former Wife, to be proved by argument of Scripture, or nicety of Law, which is merely a question of History, yet certainly the understanding Reader, will easily perceive that this is but a shift, and will also discern, that I did not bring that place of Scripture to prove that *Hugh Cyveliok* had a former wife, but that I made use of it by way of answer, to take off what you had alledged, and I do not at all doubt, but that Text will fully satisfy, that all expressions which seem Universal, are not always to be expounded without any limitation at all; but as you would extend that expression of *Glanvill* too far, so you run to the other extream concerning this of *Deuteronomy* 14.26. and would restrain these words, or for *whatsoever thy soul desireth*, only to those things there mentioned, viz. Oxen, Sheep, Wine, and strong Drink, which would be a *Tautologie*, and several times
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in the same verse give them liberty to make use of Oxen, Sheep, Wine, or strong Drink, whereas undoubtedly the Jews at their said Feasts had also liberty to eat the Goat, the Hart, Roe-Buck, Fallow Deer, Wild Goat, Pigarg, Wild Ox, the Chamois, as also all clean Fowls, Fishes, and other *clean* meats whatsoever, allowed them by their Law; and therefore this expression being as universal as that of *Glanvill*, and yet being to be expounded, so as to agree with the Laws of that Kingdom, why should not this seeming universal expression of *Glanvill* be so expounded, as to agree with the Laws of our Kingdom? And if so, sure what I say is to the point in hand.

Also, If this Text of Scripture should be restrained as you would have it, it would not contradict, but confirm what I said; For, what expression can seem more universal than this, *viz. whatsoever thy soul desireth*, and yet you confess it ought not to be understood without some limitation, and indeed, you restrain it *more* than I do.

And

And though it be true, that Bastards both were and yet are capable of receiving Lands after they have gained a name by *reputation*, yet they are not capable of having Lands passed with them in *libero maritagio*, though it be passed with them by the name of Daughter, without the addition of Bastard ; and though you pretend that *Amicia* had gained a name by reputation, yet you do not, nor cannot tell what it is, for certainly *Amicia* and *Daughter* are not any reputed names.

Neither do I put my argument about *Glanvil's* contradicting himself, as you put it, as will appear, pa. 34, and 35. of my former Book, so that you leave what I there say, wholly unanswered. Neither do I say, that the Lawyers of latter ages do expound the Law, that Lands cannot pass in Free-marriage with Bastards now, *ergo*, it was so taken in *Glanvil's* time ; but I have given you many reasons, why the Law was taken in the time of *Glanvill*, in the point of *Free-Marriage*, as it is taken now ; to which you give no other answer, but that you will leave it to wise Men to judge, who will take the paines

paines to scan them, whether they be pertinent ; And I do willingly appeal to all wisemen. whether that be an Answer to those Eight Reasons, for if it be I am much mistaken therein.

But what will you say, (though I did admit it to be so, because I would put the Case as hard as I could upon my self) if *Glanvil* by those words of his, *Lib. 7. cap. 1. Quilibet liber homo quandam partem terræ suæ cum filia sua, vel cum aliqua alia qualibet muliere dare potest in Maritagium, siue habuerit hæredem, siue non, velit hæres vel non, imo & eo contradicente* did not say or mean that a man might give lands in *Free-marriage* with any woman whatsoever, but only that he might give lands with any woman in that kind of Marriage, which was not free; For, if you observe him well, he doth not there say, that any man whatsoever can give Lands in *liberum maritagium* with any woman whatsoever, but only that it may be so given with any woman in *Maritagium*; Now that *Maritagium* is two-fold, *Glanvil* himself tells you, *Lib. 7. cap. 18.* where he sayes, *Maritagium autem, aliud nominatur*

natur liberum, aliud servitio obnoxium; liberum dicitur Maritagium quando aliquis liber homo aliquam partem terræ suæ dat cum aliqua muliere alicui in Maritagium ita quod ab omni servitio terra illa sit quæta, & a se & hæredibus suis, versus capitalem dominum acquietanda, & in hac quidem libertate, ita stabit terra illa usque ad tertium hæredem nec interim tenebuntur hæredes inde facere aliquod homagium, post tertium vero hæredem, ad debitum servitium terra ipsa revertetur, & homagium inde capietur.

Many of which words of *Glanvil* you may also find cited by my Lord *Coke* on *Littleton*, fol. 21. b. Now if you well observe it, *Glanvil* doth not there say that a man may give Lands in *liberum Maritagium cum qualibet muliere*, but only in *Maritagium*; But when he speaks of *Free-marriage* he useth the expression *cum aliqua muliere*, with some woman, viz. one of the Kindred so that without doubt he using the same expression with *Mr. Bracton* who was the next *VVriter* after him, he also understands it in the like manner, as the other did; But if *Mr. Glanvill's* expressions (*Lib. 7. cap. 1.*) had concerned

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Free-marriage, yet I have formerly shewed, that the word *Mulier* in that case, could only have been understood of a woman of the *Kindred*: Also my Lord *Coke* upon *Littleton*, fol. 21. b. when he hath told you that one of the four things incident to a Frank-marriage is, that the Woman or Man that is the cause of the Gift, be of the blood of the *Donour*, not long after on the Margent of the same Page quotes *Glanvil*, lib. 7. cap. 1. (the place on which you build) which he would never have done, if that place had been contradictory to his opinion, and certainly, if *Glanvills* words in that place are to be understood as you would have them, they do contradict what my Lord *Coke* there sayes, unless the Law in that point was taken after one manner in *Glanvil's* time, and after another manner in my Lord *Coke's* time, which if it had been so, my Lord *Coke* had been concerned to have taken notice thereof, having no otherway to reconcile it with what he had said.

What you say, pag. 32 & 33. is not at all to the purpose; For, you there tell us, that *Bastard Sons*, *bastard Daughters*,

Daughters, bastard Brothers, &c. in all Settlements and Conveyances of these last antient Ages, are termed Bastards, but you say that was never used in the Antient Ages; But, this is only your bare saying, without any proof at all, so that your word herein will not pass, unless you had shewed us several antient Settlements and Conveyances, in which, bastard Sons, bastard Daughters, bastard Brothers, &c. are named without the word *Bastard* joyned to them, which I am confident you cannot do, unless when very great persons are named, who by reason of their greatness, are usually excepted in such cases as those; And indeed you do not only want proof to make good what you here say, but I have formerly brought proof of the contrary, from Sir Henry Spelman, who in his *Glossary* on the word *Bastardus*, sayes, *Quoties enim agitur de honore vel commodo filiorum, appellatione filiorum non comprehenduntur bastardi.* And as to what you affirm, that Bastards be of the blood both now and in former ages, though the Law will not allow them so, because they now are esteemed in the eye of the Law quasi nullius

nullius filius; For if *A.* have a Bastard Son or Daughter, which is really his, they must needs be of his blood: for no Law can extinguish Nature; though by common Law they are not now esteemed so; There is no force in what you so say, Because, in this case Children are looked at, as they are in Law, and not as they are really, because, it cannot be known what they are really; And therefore if *A.* have a bastard child which is really his, yet it shall not inherit, because it is in Law *nullius filius*; and on the other side, If *A.* have a Wife who doth play false with him, and hath a Child begotten of her body by another man, yet this Child shall inherit, because it is in Law the Child of *A.* And whereas you also ask the Question, What if you say that the reason why in the Deeds of those elder Ages, they were called Daughters, without any addition of Bastard, whereby the party owned them to be of their blood, was, that the Lands passed in libero maritaggio with such might descend to their heires? For our Lawyers now tell us, that Bastards are capable of receiving Lands, after they have gained a Name by reputation;

tion ; *Why may not then Bastards, having gained the names of Daughters, receive a grant from their owned Fathers, either in Frank-marriage or otherwayes ?*

Your Question will be easily answered, because the consideration of the Gift in *Free-marriage* is the blood that is betwixt the *Donour*, and that *Donee* with whom the Land is given ; But a Bastard is not *de sanguine patris* (*Dyer, Fol. 374. b.*) and the calling of any person *Daughter*, who is not so in Law, will not make her of the blood, for if that would serve, a Man might call any other Woman his Daughter, that is not so, and then give Lands with her in *Frank-marriage*: Besides, to what purpose should such tricks as these be used, which will not hold, when though a Man cannot give Lands in *Free-marriage* with his Bastard Daughter, yet there are other wayes, whereby any Man that pleases and hath a disposing power, may settle Lands on a Bastard Daughter and her heires: Also, if *Glanvills* words did prove, as you would pretend they do, To what purpose should men in those
ages,

ages, leave the word *Bastard* out of their Deeds of *Free-marriage* to their bastard Daughters, with design thereby to cause such lands to continue to them and their heirs, if such gifts might be made with any woman whatsoever; so that you never observe how finely you have argued here, against your self.

VWhere you say, in the 34, 35, 36 and 37 Pages of your *Book*, that though you do not find *Geva* called a *Bastard* in express terms, yet you find it implied in an *Author* contemporary (meaning *Ordericus*) by certain and sure consequence, which you believe can never be fully answered; and for the fortifying of which, you pretend to give some reasons; Give me leave (since you give the occasion) again to say, what I have formerly said, viz. that though *Ordericus*, speaking of *Hugh Lupus* his death, doth add these words, *Richardus autem pulcherrimus puer quem salum ex Ermentrude filia Hugonis de Claramonte genuit*. I am not yet satisfied, but that he might as well mean, that he was the only Son which Earl *Hugh* had

had by *Ermentrude*, as that he was the only child that he had by her; For there is no necessity to take the word *solum* adverbially, neither is it marked as an Adverb in *Ordericus* his Book, though it be so in yours, and yet in his Book, Adverbs are usually marked; And though you alleadg that *Ordericus* doth not say *quem solum filium*, as I interpret him, but indefinitely, *quem solum ex Ermentrude genuit*, and so, whether *solum* be understood adverbially, or whether it be taken for a Noun, no more can be made of it in English than thus, Richard a beautiful youth whom only Earl Hugh begot on *Ermentrude*, &c. and so, whether we English it, whom only he begot, or whom he only begot, it retains the same sense, and shews that no other person, either Son or Daughter, was begotten on *Ermentrude* by Earl Hugh. You must give me leave to dissent from you herein; For, I conceive this expression of *quem solum genuit*, doth amount to as much as if he had said *quem solum filium genuit*, which if it do, then (notwithstanding the said expression) Earl Hugh might possibly have a Daughter or Daughters by the said *Ermentrude*;

Ermentrude ; For, to what Antecedent can the word *quem* so properly relate, as to the word *puer* ? and if so, then *quem solum puerum* is as much as *quem solum filium*, and so doth not exclude him from having a Daughter or Daughters by the said *Ermentrude* ; For, though the word *puer* be by some understood to signifie a Child of either Sex, as you also seem to take it in your *Historical Antiquities*, p. 113 & 114. (But misprinted 121 & 122.) Yet Mr. *Gouldman* in his Dictionary will tell you that it is a mistake, where on the word *puer* he thus writes, *Nonnullis habetur communis generis, sed male, ex Ovidiano illo Carmine, de Iphide puella in puerum mutata ;*

*Dona puer solvit quæ femina voverat
Iphis.*

And though you say, that *Geva* could not be by any former Wife, because *Earl Hugh* had never any other Wife ; Yet that is more than either you or I know, for, there were many things done in those Ages which never came to our knowledges. And therefore I do not

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take upon me to tell, whether *Geva* was by a former Wife than *Ermentrude*, or whether she was by *Ermentrude*, or whether she was a Bastard, But I say, she might be any of the three, for any thing that you have yet proved, and so long as it is uncertain what she was, you can bring no considerable Argument from her against *Amicia*; And if you could prove her a Bastard, it would signifie nothing, because the Deed made to her, is not a gift in *Frank-marriage* (as hath formerly and will hereafter appear.)

And whereas you ask, *p. 36. Being I expound the words of Ordericus to be, that Earl Hugh had no other Son, What advantage it is to my purpose, unless Geva was that Daughter, and was legitimate?* I answer, That possibly *Geva* might be that Daughter, or possibly *Geva* might be by a former Wife, and that Daughter which Earl *Hugh* had by *Ermentrude*, might die before Earl *Richard*, so that nothing of certainty can be gathered from such Arguments as these.

As to what you say, *p. 38, 39, 40 & 41. that I am not to argue upon possibilities,*

lities, and because it might possibly be so, to say, that the Earldome of Chester was antiently entayled on the heires Males ; I Answer, That I do not positively aver any such thing, But let the case be how it will, and whethersoever Geva or Randle de Meschines was the heir general to Richard Earl of Chester, it seems to me that the said Earldome, did not come by descent, to the heir general, whoever that was ; For, it clearly appears that Geva had it not, and Randle de Meschines had it not by descent ; For, if what James York in his Union of Honour, p. 105. sayes, be true, Randle de Meschines was made Earl by Grant of King Henry the First; and Ordericus p. 876. tells us, that he restored to the said King Henry, all the Land which he had by his Wife the Widow of Roger de Romara, for the Earldom of Chester ; which was more than was needful for him to do, if he had a good title there-to by descent.

And whereas you ask me, Why may I think that the King (though he gave it to Randle) did not give the honour and lands unto him, as in whom was the great-

est right to have it? and do say, that to this I give no answer at all. I may well tell you, that I could not give an Answer, until you did ask the Question, and you never asked the Question in your former Book; But the Answer which I shall now give to this Question, is, That I suppose, Kings in such cases do that, which to them seems most just, but yet Kings in these cases, as well as in others, are of different Judgments from one another very many times, and indeed the very same Princes will be sometimes of one mind, and sometimes of another mind, concerning the same thing; And thus we see, when *Randle Blundevile* Earl of *Chester* dyed, which was in the year 1232. King *Henry* the Third did suffer the four Sisters of the said Earl *Randle*, who were of the whole blood, to inherit that estate, and the said Earldome went to *John Scot* son of *David* Earl of *Huntingdon* in right of *Maud* his Mother, the eldest of the said four Sisters; But when the said *John Scot* dyed, which was in the year 1237, the said King *Henry* the Third would not suffer the said Earldome of *Chester* to come

come to any of the Sons of any of th^e Sisters of the said *John scot*, though he had before permitted it to come to the Son of the eldest Sister of the said *Randle Blundevile*.

And whereas you say, that if *Geva* had been but of the half-blood, she would by all probability have busied hard for so great an Estate in those Ages, before she had lost it. I do wonder very much at what you say, Because, any Cousen that is of the whole blood (how many degrees soever the distance is) will inherit at Law, before a Brother or Sister that is but of the half-blood; And whereas you say, *I am come to an excellent way of arguing, by ifs, andands, and possibilities, by which means Answers may be made to any thing even to eternity.* I do not offer from those kinds of Arguments or Answers, to determine any thing certainly, but only make use of them to shew the uncertainty of several things which you urge; But, you pretend certainties from such kind of Arguments, and particularly in this case of *Amicia*: For, all the reasons which you alleadg against her would not

prove her to be a Bastard, if those Arguments that are brought on her behalf were all laid aside.

In your Answer to my *Defence of Amicia*, p. 42 & 43. you again cavil with me, without any just cause, and say, *that the case that I did there put, comes as near to the case of Geva, as an Apple to an Oyster*, But whether it be so as you say, let the Reader judge. In your *Historical Antiquities*, p. 136. (which words of yours are also in the 10 & 11 pages of my *Defence of Amicia*) you have these words, viz. *And howbeit many Earldomes have descended to the heires Males, and not to the heires general, yet in this case were no heires Male, but two Females, an Aunt legitimate, who had it, and a Sister not legitimate, and shew me a precedent whereever the heires of an Aunt inherited before the heires of a Sister, both legally born and no heires-male left, unless in case of forfeiture by Treason, or some other great cause to hinder the same.* From these words of yours, I did not offer to raise any cavil, by telling you, that though honours or lands may be given to any persons whatsoever, by those

those who have power to dispose of the same, that yet they cannot properly be said to descend to any but to the next heires, and therefore in point of descent, it is impossible that any one that is further off, should be preferred before another that is nearer ; Neither did I tell you, how you did name an *Aunt* legitimate, in stead of the *Son* of an *Aunt* legitimate that had it ; But I supposing (as I think any other would have done from these words of yours) that your meaning was, that *Randle de Meschines* must needs have more right to succeed in that Earldom of *Chester*, than *Geva* had, because, the said *Randle* did enjoy the same, and that you thought it to be very clear, that whensoever there were no heirs-Male left, if the honour went to any of the Kindred, the *King* did alwayes prefer that person who was next of blood to it, except in case of Treason, or the like, and did thereupon desire me to shew you a precedent to the contrary, if I so could, and you instancing in the *Earldome*, and not in the Lands, I did thereupon shew you where one that was a *Baron* by Writ, dyed without heir Male,

leaving two Sisters only, and the *Baronry* came to the Husband of the younger Sister, and not to the Husband of the elder Sister, it being the pleasure of the King to call Sir *Hunt Bourcher*, who had Married the younger Sister, to the Parliament, and not to call Sir *Thomas Nevil*, who had Married the elder Sister; And if this be not a like case to that of *Geva* and Earl *Randle* (if *Geva* was legitimate) I am still very much mistaken; And whereas you now demand of me, If *Geva* was legitimate, Why the *Lands* of *Richard* Earl of *Chester* did not come to her, whatever the Earldom did: Though I cannot give you the certain reason, because the thing was done so long since, yet I can shew you several possibilities why they might not; For, either it might be the will and pleasure of the then King, that *Randle de Meschines* should have the Estate as well as Earldome, and that *Geva* should have recompence made her some other way, (as the Sisters of *John Scot* Earl of *Chester* in the like case afterwards had) or perhaps she might be of the half-blood to Earl *Richard*,
 and

and *Randle de Meschines* be heir at Law before her, or perhaps the said Ear l *Richard* having a greater kindness for the said Ear l *Randle* than he had for *Geva*, (there being sometimes great unkindnesses betwixt Brothers and Sisters) might give his Estate to the said *Randle de Meschines*.

Those Arguments of mine which you mention p. 44. and are pretended to be Answered by you, pag. 45, 46 & 47. remain yet in their greatest strength, and are not at all answered by you, nay, the one of them is so farr from being answered, that it is not understood by you, unless you only pretend not to understand it, because, you perceive you cannot give an answer to it, and I rather think that to be the truth of the case, Because you have not recited my Argument as I did express it; For you recite it thus; Because *Coke* upon *Littleton*, fo. 21. b. tells us that these words *in liberum Maritagium* are words of Art, and so are necessarily required: and there you break off abruptly; Whereas I told you that the Deed which you alleadged to be made
to

to *Geva* would not at all concern *Amicia*, if *Geva* was a bastard, because it was no gift in Frank-marriage, as that gift to *Amicia* was; And for a proof thereof I told you, that my Lord *Coke* upon *Littleton* in the place abovesaid did tell you, that *these words* in *liberum maritagium* are *such words of Art*, and so necessarily required (in these kind of gifts) as they cannot be expressed by words equipollent, or amounting to as much; And he also there gave you the reason, which was, that these words in *liberum Maritagium* did create an Estate of Inheritance, against the general Rule of the Law, and therefore the Law required, that it should be legally pursued; And to explain this, he also said, that if a man give Lands to another with his Daughter, in *connubio soluto ab omni servitio, &c.* yet there passeth in this case but an Estate for life; For although those words be the same in sense, as the words in *libero maritaggio* be, yet being not the very same words, they do not create an Estate of Inheritance; But you contrary to all this, would not believe my Lord *Coke*, if he should have said that the words in *libe-*

ro conjugio did make but an Estate for life, (which he hath indeed by consequence said) But you will have the words *liberum conjugium* to create an Estate of Inheritance, as well as the words *liberum maritagium* (which no man before you ever said) Whereas no words that are equipollent, or amounting to as much can do it, it being impossible to make an Estate in *Free-marriage*, if there be wanting either the word *liberum*, or the word *Maritagium*.

Also, as the words *in libero conjugio* can make but an Estate for life, so it is also clear, that in your Deed of Earl *Randle* to *Ceva*, there was no more intended than an Estate for life, it running all along in the singular number *Et teneat bene & in pace. &c. ut melius & liberius tenuit*. And it is likely the Deed of Earl *Hugh* did run after the same manner, by that expression *sicuti Comes Hughes ei in libero conjugio dedit*, But I believe the *Passets* did afterwards enjoy the said lands, though how, or by virtue of what Deed, I am not able to declare ; For, in *Monasticon Anglicanum*,

num, Part I. p. 439, and in your *Historical Antiquities*, p. 113. (but misprinted 121.) I find *Geffrey Ridell* and *Ralph Basset* called the heires of the said *Geva*; Now if those persons were the heires of her body, and the aforesaid Deed a Gift in *Frank-marriage*, Why did not *Earl Randle* confirm or grant those lands to her heires, as well as to her, And if they were not the heirs of her body, she could not be a *bastard*, For, as my Lord *Coke* on *Littleton*, fol. 3. b. tells you, *A Bastard can have no heir but of his own body.*

And whereas I brought another Argument to prove that this Gift of *Geva* could not be a Gift in *Frank-marriage*, Because my Lord *Coke* says, that one of the things incident to a *Frank-marriage* is, that the *Donees* shall hold freely of the *Donour* till the fourth degree be past, which cannot be in *Geva's* case, Because there was no *Donees*, but one *Donee* only, and the Estate could not continue until the Fourth degree was past, because it was onely for *Geva's* life; You tell me that my Lord *Coke* upon *Littleton*, fol. 21. b. ci-
teth

teth Peter Saltmarch's Case, and Fitz-Herbert de natura brevium, fol. 172. that lands may be given by a Man to his Son in Free-marriage, and why not to his Daughter alone in Free-marriage? But I pray you, How can there be a Gift in Free-marriage, if there be no Marriage at all? and, How can there be a Marriage, if the Man or Woman be alone? But you misunderstand this place (as you do many others) For, my Lord Coke, if you observe him well, doth not there say, that such a Gift can be made with a Man alone, or with a Woman alone, But there tells you, that a gift in free-marriage may be either to a Man with a woman, or as some have held, to a Woman with a Man, and for proof thereof, cites Peter Saltmarsh his case, and Fitz-Herbert; And this is no more than what I said in the 49 Page of my former Book, where I also shewed you how Bracton did therewith accord; But there is none of them that saith as you do, That land may be given in Frank-marriage to a Man without a Woman, or to a Woman without a Man.

In your 48 & 49 Pages, you would willingly perswade the Reader that
Earl

Earl Randle de Gernoniis Father to
Earl Hugh Cyveliok was Married by
Robert Earl of Gloucester unto Maude
 his Daughter, thereby to draw him to the
 part of *Queen Maude* his Sister, about the
 very year 1139. before which time we find
 no mention in our antient Historians of
Randle's acting against King Stephen,
 but in that very year we do, and then by
 some of them stiled Son-in-law to the Earl
 of Gloucester. But I pray you, VVhy
 is it not full as likely, that before that
 time, *Randle de Gernoniis* was Married
 to the Daughter of the said Earl of
 Gloucester, and thereby was the more
 easily drawn to that party, to which he
 stood so near related, as that, that
 match should be made purposely to
 draw him to that party? And how
 could you hear much of that Earl
Randle's actings against King Stephen,
 before the year 1139? seeing *Gervasius*
 a *Benedictine Monke* of Canterbury (who
 lived in the Reign of King John) tells
 us, in his *Chronicles* or *Annalls*, col. 1345.
 l. 60. that it was in the year 1138, when
Robert Earl of Gloucester did begin to
 quarrel with the said King Stephen.

And

And whereas you yet seem unsatisfied that Earl *Hugh* was of such an age as probably to have had another Wife before *Bertred*, and do now say, p. 49. if we reckon by utmost possibilities, that Earl *Hugh* could not possibly be above sixteen or seventeen years older than *Bertred*; I do very much wonder thereat, seeing I have formerly from the Argument which you used to prove it to be otherwayes, made it manifest, that he might possibly be several years above double her age, and that so clearly, that I am confident, no man besides your self, will offer to deny the same; For I then told you that whether the Marriage of *Robert* Earl of *Gloucester* with *Mabill* Daughter and heir of *Robert Fitz-Hamon* was according to *Selden* in the year 1109. or according to *Stow* in the year 1110. the said *Mabill* might have *Maude* her second Daughter in the year 1112, which *Maude* if she was Married to Earl *Randle de Gernoniis* in the year 1128, when she was sixteen years of age, might have her Son *Hugh Cyvelick* in the year 1129. which if true, the said Earl *Hugh* was
fifty

fifty two years old at his death, For he died in the year 1181. and if so, then he was four years above twice the age of *Bertred*, For she was but Twenty four years old when the said Earl *Hugh* died, as appears, *Rot. de Dominabus pueris*, &c. in *Scacc. penes Remem. R. sub Tit. Linc. Rot. 1.* And it is certain, that the said Earl *Hugh* was Earl of *Chester* about four years before his VVife *Bertred* was born, besides what age he was of, when his Father died, and his Daughter *Amicia* was Married in his life time, and none knows how many years before his death. And if the Marriage of the said *Robert* Earl of *Gloucester* with the said *Mabill* was in the year 1109. then he might possibly be Five years above double the age of his VVife *Bertred*; And this is the more likely to be true, Because, though Mr. *Selden* be a later VVriter, than Mr. *Stow* is, yet Mr. *Selden* cites one that lived long before Mr. *Stow*, as will appear by the old English Rithmical Story, attributed to one *Robert* of *Glocester*, and recited in the 647. Page of Mr. *Seldens* Titles of Honour.

In your *Answer*, pag. 50, 51, 52 & 53. you endeavor to weaken the Third and Fourth reasons which were brought as concurrent proof on the behalf of *Amicia*, by saying, that *Hugh Cyveliok's Wife was a witness to her Husbands Deed, which a Wife cannot now be, she being not capable to be a Witness, either for or against her Husband*, whereby you would insinuate a change of the Law in that particular from what it was formerly, and you also say, that if *Hugh Cyveliok had had a former Wife, jure Raph Mainwaring would have called his Daughter after her, and not after the then Countess; And you there make nothing of Roger Mainwaring's calling Randle Earl of Chester and Lincoln his Uncle in a Deed, nor of Henry de Audley's being a Witness to the Deeds of Randle Earl of Chester and Lincoln, and of Robert de Ferrars, (which later you say is far fetcht) nor of Raph Mainwarings and Roger Mainwarings being Witnesses to so many Deeds of those that were Earles of Chester in their times.*

E

But

But to these things, I say, that the Law is still the same as it was formerly, in the particular by you here mentioned ; For , both antiently and at this day also , I know nothing that hinders , but that the Wife may subscribe as a Witness to a Deed which her Husband doth make , and though she neither antiently could, nor yet can be a witness for or against her Husband , yet there is this use of it, that if the Wife survive her Husband, and it come to be controverted amongst other parties, whether such a Deed was Sealed by him, or not, she in the time of her VVidowhood , may be a good VVitness for the proving of the same.

And as to the calling of Sir *Raph Mainwarings* Daughter by the name of *Bertred* after the present Countess, and not after the name of *Hugh Cyvelioks* first VVife ; That is no wonder at all, it being more ordinary to call Daughters after their Godmothers Names, than after the names of their own Grandmothers, and especially when the Godmothers are of great quality ; Now the said *Amicia's* Daughter being
called

called *Bertred* (which is a very unusual name) it is more than probable, (according to what you expressed to me under your hand in *April 1664.*) that *Bertred* the Countess was Godmother to the said *Bertred Mainwaring*, And if so, it is very unlikely that *Amicia* was illegitimate; For *VVives* are seldome Godmothers to their Husbands Bastards, or to the Children of such Bastards.

Also, Sir *Raph Mainwaring* and Sir *Roger Mainwaring* and *Henry de Audley* the Sou-in-law of the said Sir *Raph Mainwaring* being so often *VVitnesses* to the Deeds of the Earls of *Chester*, and to the Deeds of their very near Relations, doth certainly shew there was then a very great and constant intimacy betwixt the said Families.

And though you pretend that Sir *Raph Mainwaring* was very conversant with the Earle, because he was Judge, and therefore came so often to be a *VVitness*, and say, that we may find the like number of Charters or more, to which Philip Orreby Judge of *Chester* was witness in like nature; I conceive that you are deceived therein, although

Philip Orreby was Judge of *Chester* perhaps longer than *Sir Raph Mainwaring* was ; For I do believe that I can make it to appear by what Deeds I have, and what Deeds I have seen of others, that *Sir Raph Mainwaring* and his Son *Sir Roger Mainwaring* were witnesses to more Deeds of *Hugh Cyvelioke* and *Randle Blundevill* than any other persons of any one Family were ; Add hereunto (which I have in my former Book mentioned) that *Sir Roger Mainwaring* in a Deed of his own calls *Randle* Earl of *Chester* and *Lincoln* his Uncle, and how I did there observe, that though the VVriters of Histories, did sometimes give to Bastards, the name of Cosen, Brother, Uncle, Son, and Daughter. I did believe you could hardly find any one that you could certainly prove to be a Bastard, or the Son of a Bastard, that did presume in a Deed to call so great a person as the Earl of *Chester* was, his Brother or Uncle, unless he came to be a very great Person himself; And this is so true, that in the 53 Page you are forced to confess that such Precedents are scant, but yet you think you have found one,

viz.

viz. *Randle de Estbury*, or *Astbury*, who in a Deed mentioned in the *Addenda* of your *Historical Antiquities* is called, the *Earl of Chester's Nephew*, and is put the last of all the witnesses, and was certainly but an ordinary Gentleman, nor Knight nor Lord. But this Precedent will fail you, for two Reasons, *First*, Because you do as good as confess that you cannot prove him to be a Bastard, (and he might perhaps be a younger Brother, or Son of a younger Brother, and so not necessarily a Knight or a Lord) And *Secondly*, Because he doth not call himself the Earles Nephew, but is called so by others, and that is so far from contradicting, that it doth confirm what I said in my former *Book*; Also if you observe it, there were no VVitnesses to the said Deed, besides the said *Randle de Astbury*, except *David de Malpas* (whom I conceive was *Baron of Malpas*) and *William* his Son.

And whereas you say, you should be glad to find out the Extraction of the said *Randle de Astbury*, if he were not a Bastard. Though it be perhaps impossible now to tell you his Extraction certainly, because he lived so long since,
and

and we only find him mentioned as a witness in one Ded, Yet I doubt not but to satisfy the Reader, that he and his Father and Mother might all be Legitimate, For, (not to say, that he might be a Son of some other Daughter of the said *Hugh Cyveliok* by his former VVife) he might possibly be the Son of *Roger*, Son of *Hugh Cyveliok*; And I know no great reason why the said *Roger* should by you be suspected to be a bastard, For, you only find him (as appears by your *Historical Antiquities*, p. 134. and in my *First Book*, p. 1.) mentioned as a Witness to a Deed of his Brother *Randle's*, to the Abbey of Saint VVerburge: So that you conceive him to be a bastard, Because neither he, nor any issue-Male of his, succeeded in the Earldome of *Chester* after the death of *Randle Blundevil*, VVhereas the said *Roger* might be lawful, and be Father to this *Randle de Astbury*, and yet both he and the said *Randle de Astbury* might dye before the said *Randle de Blundevil*, For he lived very long, and was Earl of *Chester* above Fifty years; Also it is very strange, if *Amicia* was a Bastard, and the Father or
Mother

Mother of the said *Randle de Astbury* was also a Bastard, that those Bastards could find none to call their Children after, but the then *Countess*, and the then *Earl*, For the Daughter of *Amicia* was called *Ertred* after *Randle Blundevill's* Mother, and *Randle de Astbury* was of the same Name with the said *Earl*; But admitting that the said *Roger* was a Bastard, Why might not *Randle de Astbury* however be his Son? and then, What necessity (of what you say in your *Addenda*) of either finding out another Base Son, or another Base Daughter of the said *Hugh Cyveliok*; But you have been very willing to charge him with many Bastards both Sons and Daughters, although I find no great Reason to suspect that he had any at all unless *Paganus de Milton*, and it is possible in that case, you having neither the Deed, nor a Copy of the Deed by you, that you might take *Hugh Cyveliok* for *Hugh Lupus*, as well as in another Deed (as will anon appear) you did take *Randle Blundevil* for *Randle de Gernoniis*.

I am still of the same opinion that I was formerly of, *viz.* That *Richard Bacuns* Mother was not a Base Daughter of *Hugh Gyveliok*, nor any Daughter of his at all, but that she was daughter to *Randle Meschines*, and Sister to *Randle de Gernoniis*; And I think those reasons which I have given in my former Book do fully prove the same. And albeit you tell me in the 54, 55, and 56 pages of your latter Book, that *truly I am deceived in it*, yet I do not doubt but to satisfy all the world, that it is you (and not I) that are deceived therein; And whereas you say, *it is true (as I observe) that there was no such Archbishop of York called Will. nor Bishop of Chester, whose Christian name began with R. both living at one time, either in the time of Randle de Blundevill or Randle de Gernoniis.* I answer, I did make no such observation at all, but the contrary, For, I shewed you that in the time of *Randle de Gernoniis*; *William*, Sisters Son to King *Stephen*, was Archbishop of York, for a time, *viz.* about 1142 or 1143. (though he was afterwards ousted of it again

again till 1152, or 1153.) and *Roger Clinton* was Bishop of *Coventry* and *Litchfield*, (which then was the same with the Bishop of *Chester*) from the year 1128, until the year 1148 or 1149. And I then also told you, that there was no *William*, Archbishop of *York* at anytime during the life of *Randle Blundevill*, nor any man Bishop of *Chester*, whose Christian name began with *R.* except *Richard Peche*, who died about the time that *Hugh Cyveliok* died, viz. in 1182 (though some say, in 1181. and some in 1183.) at which time *Randle Blundevill* could not be of age to Seal any kind of Deed, because *Bertred* the said *Randle's* Mother, was then but about Twenty five years old; and this Argument you perceive to be so strong against you in this point, that you have no way to avoid it, but by giving a strange answer to it, which is, that you do conceive the Roll from whence the Deed in Monasticon (Par. 2. Pa. 267.) is written, is mistaken in Will. and R. and miswrit therein from the Original Chart it self; Which libertv if a Man might take, he might answer any thing in the world; and your reason
for

for so saying is, *Because Richard Bacun in his said Deed doth say, that he had procured the warrantie of Randle Earl of Chester his Uncle, for the ratifying of that Grant; and the very next Deed following in the Roll, and transcribed in the Monasticon, is the Deed of Randle Earl of Chester, with Confirmation and Warranty accordingly, whereunto Roger Lacy, Constable of Cheshire is a witness, who only lived in the time of Randle Blundevill, and no other Earl of Chester, as I may see cleerly proved among the Barons of Halton in your Book, nor is there any other Deed of Confirmation and Warranty to be found by any Earl, save this; wherefore (you say) certainly it must be Randle Blundevil whom Richard Bacun calleth Uncle in his own Deed of the Foundation of the said Priory. And you also say, the Bishop of Chester (being also Bishop of Litchfield and Coventry at that time) he was not then subject to the jurisdiction of York but Canterbury; and you also say, That there was no Archbishop of York called Will. nor Bishop of Chester, whose Christian name began with R. both living at one time, either in the time of Randle Blun-*

Blundevill or Randle de Gernoniis, *that*
you can find.

To which I answer, That it is not to be doubted, but that *Richard Bacun* did obtain the Warranty and Confirmation of that *Randle* Earl of *Chester*, who was his Uncle, and then living ; neither is it to be doubted, but that the Deed, to which *Roger* Constable of *Cheshire* was a witness, was the Deed of *Randle Blundevil*, I having proved it to be so, in the 56 page of my former Book, because *Roger* Constable of *Cheshire* was living in the time of no other *Randle* but *Randle Blundevil*, so that you did not need to send me to see that clearly proved among the Barons of *Halton* in your Book ; but the Deed of Confirmation of that Earl who was Uncle of *Richard Bacun*, is not in the *Monasticon*, but was probably lost, as many other antient Deeds were : and that Deed of *Randle Blundevill*, which is there, is but another Deed of Confirmation, according to the mode of those times, when, it was usual to obtain such, from several Princes, several Generations one after
 ano-

another; and for proof hereof, I did desire you to read *Monasticon Anglicanum*, Par. 2 Pa. 24, and 25. where you might find King *Henry* the I. reciting and confirming what had been given to the Priory of *Huntendune*, and pa. 27. how King *Henry* the III. did the like, and yet there was a greater space betwixt King *Henry* the I. and King *Henry* the III. than there was betwixt *Randle de Gernoniis* and *Randle de Blundevil*; and very many others of the like nature, may be found, by those who will take the pains to make search in the several *Monasticons*.

Also, it is very strange, that you should fancy that the Roll, where the said Deed in *Monasticon* was written, should be mistaken both in *Will.* and *R.* especially since the word *Will.* was the first word in the said Deed; neither is it a badge of any mistake in the said Deed, because the Archbishop of *Tork* is named in it, though the Bishop of *Chester* (being at that time the same with the Bishop of *Coventry* and *Litchfield*) was not then subject to the Jurisdiction of *Tork*, but *Canterbury*; For,
the

the Archbishop of *York* was not named upon that account, but, because some of the places mentioned in the said Deed, were within the Province and Diocesse of *York*, as particularly *Rossington* was, it being within the *West-riding* of *Yorkshire*; but I suppose your principal reason why you suspect the *Roll* was mistaken is, because you say, *there was no such Archbishop of York, called Will. nor Bishop of Chester, whose Christian name began with R. both living at one time, either in the time of Randle Blundevill or Randle de Gernoniis, that you can find.* Which saying of yours seems very strange to me, but I believe all your doubt is about the *Will.* that was Archbishop of *York*, because Dr. *Heylin* (a late Writer) in his *Catalogue of Bishops* doth not mention the said *Williams* being chosen Archbishop immediately upon the death of *Thurstan*; for I am confident that you are well satisfied that *Roger Clinton* was Bishop of *Chester* (as appears by the Third Part of the *Monasticon*, page 218. as also by Bishop *Godwin*, *Jsaackson*, Doctor *Heylin*, *Simon Dunelmensis*, *Matt. Paris*, and many other

other antient Authors) from about 1128. until about the year 1148. or 1149. which fell out to be in the time of *Randle de Gernoniis*, for he was Earl, (as appears in your Book) from about the year 1128, till about the year 1153. And I doubt not but to make it as clear, that a *William* was Archbishop of *Tork*, in the time of the said *Randle de Gernoniis* and *Roger Clinton*, and though the said *William* was afterwards ousted, yet whilst he enjoyed that Archbishoprick, he was, and would in Deeds, and otherways, be owned as Archbishop of *Tork*;

Now that a *William* was Archbishop of *Tork*, in the time of the said Earl and the said Bishop, I have already shewed you in my former Book, out of *Isaackson's Chronology*, and shall thus make it further to appear;

If you look into Bishop *Godwin's Catalogue* of the Bishops of England, printed at London 1615, page 581. in the life of *Henry Murdock*, Archbishop of *Tork*, you may find him saying thus,

King

1142.
Stephen
8.

King Stephen had a kinsman named William, (that was Son unto Emma his Sister, by Earl Herbert) a Man no less noble in Mind and Vertue, then Stock and Lineage. He being Treasurer of York, was now elected unto the Archbishoprick, and having obtained Consecration also, sent to Rome for his Pall. His speed there was not so good as he looked for; by some Adversaries many exceptions were taken against him, whereby it came to pass, not only his Suit was put off, and stayed for that time, but also Process awarded to admonish him to come thither in Person to answer the accusations laid against him. At his coming to Rome, he found his Adversaries many and Mighty. And among the rest it is remembred, that St. Bernard, then living, was very earnest against him. Eugenius the Pope, had been brought up in the Abbey of Clarenal under St. Bernard, together with Henry Murdac, whom Williams adversaries had set up to be a Suiter for his Archbishoprick. The Pope being thus carried away with the persuasion

swasion of his old Acquaintance, and some shew of matter, was content to deprive *William*, and to place *Henry Murdac* in his room, whom he caused to be Consecrated presently, and sent him home into *England* with his Pall. King *Stephen* hearing this Newes, was much grieved with the disgrace of his Nephew, which all Men judged undeserved. Therefore He stood upon Termes with the new Arch-bishop, and required him to Swear unto Him fealty in some extraordinary manner; and when he denyed, easily took occasion of displeasure against him. The Townsmen of *Tork* that loved *William* exceedingly for his Gentleness and Vertuous behaviour amongst them; hearing how the King was affected; refused to receive *Murdac* into their City. For this resistance he suspended them: which notwithstanding, *Eustach* the King's Son, commanded Service to be said as at all other times was accustomed. By means hereof, as also by reason that the King's Officers were very terrible and heavy enemies unto all that had laboured for the Depriuation of *William*: Seditions and Tumults

mults were daily raised in the City, amongst which a certain Archdeacon, a Friend of the Archbishop, was slain. Two or three years these stirs continued, till at last, the Kings wrath (by means) being appeased, *Tork-men* were content to receive their Archbishop peaceably. He governed very austerey the space of ten years, dyed *Octob. 14. 1153.* at *Sherborne*, and was buried in his Cathedral Church. And when *Bishop Godwin* hath thus said, he presently after tells you, how the said *William* (there called *Saint William*) after the death of *Henry Murdac* was again restored to the said Archbishoprick.

Also, if you loock in *John Brompton's* Chronicon, col. 1028. l. 63. in the life of King *Stephen*, you may find him thus saying;

Dicto autem Thurstino Eboracensi Archiepiscopo Monasterii Fontanensis aliorumque octo fundatore, ut dictum est, decedente (and he dyed, sayes the said *Brompton*, col. 1028. l. 25. in the year 1140. with which Bishop *Godwin* doth
F accord)

accord) *Singuli Ecclesie Eboracensis Canonici, beatum Willielmum ejusdem Ecclesie Thesaurarium præferunt, tam pro honestate morum, quam excellentia meritorum. Iste namque Willielmus ex spectabili prosapia Regis Stephani ortus, præclaris natalium titulis fuerat insignitus; erat enim filius potentissimi viri Comitis Herberti. Qui quamvis post decessum dicti Archiepiscopi Thurstani, ad sedem Eboracensem electus fuerat; invidia tamen & impetuosus amor dominandi quemdam ejusdem Ecclesie Archilevitam adeo in regionem dissimilitudinis traxerant, ut inter eligentes discidium excitavit, ipsum Willielmum a favori parte electum impediens licet de ejus electione clerus & populus exclamassent laudum præconia, suspenditur igitur causa ad Apostolica sedis examen provocata.*

See also the said *Brompton* to the same purpose, Col. 1041. l. 10.

Also *Roger Hoveden* who lived in the time of King *Henry the Second*, King *Richard the First*, and King *John*; in the First Part of his *Annals*, Printed at

at Frankfort 1601. Page 490. l. 51. writes thus of the Restitution of the said William, eodem anno obiit Henricus Eboracensis Archiepiscopus, quo defuncto, Willielmus Archiepiscopus, quem Papa Eugenius suspenderat, Romam profectus est, & invenit gratiam apud Anastasium Papam, & redditus est ei Archiepiscopatus Eboracensis. And I think it is not to be doubted, though I have not yet found the place, but that the said Hoveden doth speak of his being chosen after the death of Thurstan, because Isaakson in his Chronology, cites Hoveden for what he there sayes, but he names not the Pages.

Also, Thomas Stubbs (a Dominican) writing of the Archbishops of York, col. 1721. l. 15. thus sayes,

Vicissimus nonus successit in Archiepiscopatum Eboracensis ecclesie Henricus Murdak Cisterciensis ordinis Monachus ac professor probatissimus, vir magnae sanctitatis & abstinentie laudabilis. Defuncto namque, ut praemittitur, Thurstino Eboracensi Archiepiscopo, convocatisque ad electionem pontificis Canonicis ecclesie Eboracensis, Willielmus ejus-

dem Ecclesie Thesaurarius & Canonicus
 exigentibus suis meritis a Majori & sa-
 niore parte in Archiepiscopum est electus.
 Erat enim strenuissimi Comitis Herberti
 filius ex Emma sorore Regis Anglorum
 Stephani progenitus. Vir quidem gene-
 re nobilis sed morum excellentia & vita
 mundissima incomparabiliter insignis.
 Interea vero Osbertus archidiaconus
 Eboracensis invidie stimulo agitatus,
 facta inter eligentes dissensione, confir-
 mationem ipsius electi licet ab omnibus
 dignus haberetur pertinaciter impedivit:
 suspenso igitur negotio partibusque coram
 Romano pontifice super hujus electionis
 discussione personaliter vocatis, idem
 Willielmus persequentibus illum adver-
 sariis suis & injuste accusantibus consec-
 rationis gratiam minime potuit optinere.
 Lite ergo in curia Romana sub Papa In-
 nocentio secundo, Celestino secundo, &
 Lucio secundo per annos quinque & am-
 plius delito processu corrente, nichil inven-
 tum est quod ejus consecrationem deberet
 elongare. Verum summus Pastor Euge-
 nius Cisterciensis ordinis Monachus an-
 no Dominice incarnationis M. C. xlvi.
 in Papam consecratus electionem dicti
 Willielmi non ratione personalis inha-
 bilitatis,

habilitatis, ymmo pro libito suæ voluntatis cassavit, &c. And there he also after speaks of the Restauration of the said *William* to the said Archbishoprick: so that it seems by this Author that the said *William* held the said Archbishoprick upon his first election, till after the deaths of Pope *Innocent* the Second, Pope *Celestine* the Second, and Pope *Lucius* the Second, viz. till about the year 1146. but was then ousted by Pope *Eugenius*, and restored again by Pope *Anastasius*, after the death of *Henry Murdac* about the year 1153.

Also *Gulielmus Nenbricensis*, who lived in the Raignes of King *Richard* the First, and King *John*, page 368. l. 10. thus writes,

Venerabili Truistino defuncto, Eboracensis Ecclesiæ Pontificatum suscepit Gulielmus ejusdem Ecclesiæ Thesaurarius, vir plane secundum carnem nobilis, & morum ingenua lenitate amabilis. Qui cum ad sedem Apostolicam responsales idoneos propetendo solemniter pallio direxisset: emergentibus adversariis & multa contra eum proponentibus negatum est. Jussusque ad eandem sedem in propria persona accedere & pro semetipso

tanquam etatem habens allegare : causis tamen ingravescentibus atque invalescentibus adversariis, pia quoque memoriae Papa Eugenio contra eum, siue per veritatem, siue per surreptionem implacabiliter irritato depositus est, &c.

So also Gervasius a Benedictine Monk of Carterbury, who lived in the time of King John, Col. 1357. l. 52. in the year 1142. thus sayes,

Rex autem Stephanus dedit Archiepiscopatum Eboracensis ecclesie cuidem clerico nomine VVillielmo, quibusdam clericis ejusdem Ecclesie consentientibus, aliis vero ut audebant reclamantibus, unde factum est ut cum Theodbalus Cantuariensis archiepiscopus sic facte non consentiret electioni, Henricus frater Regis VVintoniensis episcopus apostolice sedis legatus, presumptuosa semper magnanimitate famam colligens, predictum electum apud VVintoniam consecraret. Abiit itaque novus sacratus Eboracum, & vix duobus annis sedit in pace.

Also, Radulphus de Diceto, who was Dean of Pauls, and lived in the time of King

King *John*, Col. 508. l. 11. thus writes,
*Thurstino Eboracensi archiepiscopo suc-
 cessit Willielmus.*

Also, *Matt. Paris* (who lived in the time of King *Henry* the Third) in his *Greater History* put out by Doctor *Watts*, Page 78. sayes thus in the year 1139. *Tunc defuncto Turstano Eboracensi Archiepiscopo, Willielmus ejusdem Ecclesie Thesaurarius successit.*

Also, *Simcon Dunelmensis*, a Benedictine Monk, who lived in the Reign of King *Stephen*, and in the time of the said *William*, Col. 79. l. 39. speaking of the Archbishops of *York*, thus sayes; *Post Oswaldum isti sibi ordine successerunt, Aldulfus, Vulstanus, Eelfricus, Kinsius, Aldredus, Thomas, Girardus, Thomas, Turstinus, Willielmus, Henricus, Rogerus;* There placing the aforesaid *William* before *Henry Mardac*.

And *John Prior* of *Hagulstald*, in his Continuation of the History of the said *Simcon*, Col. 268. l. 41. thus writes; *Anno M.C. xlii. Post mortem Turstini archiepiscopi clerici Eboracenses secundum desideria cordis sui varia*

& vaga sententia circumacti fuerant toto anno super electione facienda. Elegerant autem persuadente legato Henrico Wintoniæ nepotem Regis Stephani Henricum de Coilli. Qui quia præfuit abbatiæ Kadomensis, noluit dominus apostolicus cum præfici archiepiscopatus nisi renunciaret priori honori. Mense Januario iterum de electione tractantes, in personam Willielmi Thesaurarii plurimi consenserunt. And presently after, l. 60. further sayes, Perductum itaque electum ad Lincolniam rex libenter suscepit, & in terris & possessionibus Eboracensibus confirmavit.

Now though a lesser number of Authors might have served to prove that there was a *William* Archbishop of *York*, living in the time both of *Randle de Gernoniis* and *Roger Clinton*, yet I thought fit to cite all these, to let the world see that it was nothing else, which made you that you could not find it to be so, but because you would not find it to be so; For, I know, you have most (if not all) of the said Authors, and if you would have made search, you might easily have found what is here said.

But besides what is here alleadged, if you had but observed those Deeds of *Richard Bacun* and *Randle Blundevil* which are mentioned *Monasticon Anglicanum*, Part 2. Page 267 & 268. and the Deeds of *Randle de Gernoniis* that are in your own *Historical Antiquities*, you would easily have known that the said *Richard Bacun* did live in the time of the said *Randle de Gernoniis*; For to the said Deed of *Richard Bacun*, *Hugo Wac*, *Willielmus Constabularius de Donington*, *Thurstanus Banastre*, *Willielmus Bacoun*, *Robertus Bacoun*, *Willielmus de Colevile*, *Richardus Pincerna*, *Willielmus de Binulle*, *Galfridus Dispensarius*, *Willielmus Capellanus*, and *Johannes Capellanus* are Witnesses: and to the said Deed of *Randle Blundevil*, *Rogerus Constabularius Cestrie*, *Rogerus de Montealto Seneschallus Cestrie*, *Simon de Kyma*, *Thomas Dispensarius*, *Simon de Thochet*, *Willielmus de Hardresbulle*, *Hugo de Nevilla*, *Henricus de Longo Campo*, *Philippus de Horreby*, *Sampson Prior de Trentham*, and *Thomas Clericus* are witnesses.

Now as it would appear probable
(if

(if there were nothing else in the case) that this Deed of *Richard Bacun* was not made in the time of *Randle Blundevil*, because there is not any one person a witness to the said Deed of *Richard Bacun*, who was a witness to the said Deed of *Randle Blundevil* (or to any other Deed of his, that I can find) So it certainly appears from your *Historical Antiquities*, that those who were witnesses to *Richard Bacun's* said Deed, did live in the time of Earl *Randle de Gernoniis*, and not in the time of *Randle Blundevil*; For, as you may there see, Page 126 & 127. in the Deed made by *Henry Duke of Normandy*, to the said *Randle de Gernoniis*, the aforesaid *Hugh Wac*, and *Richard Pincerna* were then witnesses on the behalf of the said *Randle*, also Page 128. to one Deed of the said *Randle*, the said *William Colevile* was a witness, and to another of the said *Randle's* Deeds the said *Willielmus Capellanus* and *Richardus Pincerna* were witnesses, and Page 160 & 161. to another Deed of the said *Randle de Gernoniis* the said *Thurstan Banaster*, *Richard Pincerna*, and *William the Chaplain* were witnesses; and

and so also the said *Richard Pincerna*, *Thirstanus Banaster*, and *Willielmus Capellanus* were witnesses to another Deed of the said *Randle de Gernoniis* concerning *Neither-Whitley*, mentioned by you, Page 387. Though you there run upon a mistake, and say that *Randle Blundevil* made that Deed, which cannot be, Because those witnesses (as appears before) did live in the time of *Randle de Gernoniis*, and not in the time of the said *Randle Blundevil*, they being no witnesses at any time to any Deed of *Randle Blundevils* that I can find, although he was Earl of *Chester* above fifty years, so that nothing can possibly be more clear than this is.

As to the word *asperfed* which you fault me for using, I do not apprehend that it signifies a malicious seeking to throw dirt in anothers face unjustly; For, to asperse, properly signifies but to besprinkle, with which, malice will seldom rest satisfied: and I will do you this right, to declare that I believe it is not malice, but a desire to divulge your supposed new Discovery, which occasioned you thus to do.

That

That way of Arguing which you use in the 57 Page is very odd ; For, Because you suppose the *Respondent* will deny your *Minor*, you would have him give over answering, and turn *Opponent*, and so endeavour to disprove what you ought to prove ; But what you say, Page 58. that you have proved *Amicia* to be a Bastard, unless *Hugh Cybeliok* had a former Wife, and also Page 59. that if he had no other Wife but Bertred, and she no Daughter to Bertred, then certainly if she be a Daughter and so called, she must needs be a Bastard, is undoubtedly true ; For *Amicia* must needs be a bastard, unless she was legitimate.

You grant in your 59 Page, That my probing *Amicia* to be called a Daughter so long since, she ought to be presumed legitimate, till the contrary appear ; But why therefore do not you presume her so to be ? And though you pretend there are many strong reasons to the contrary, yet I have shewed the invalidity of them all, and therefore what I have formerly said

said stands good, and is to the point, viz. That the proving that she was not by *Bertred*, does not prove that she was a bastard, but onely proves that she was either a bastard, or by a former wife.

And as to what you alleadg, Page 60. that, *though the Law allowes not this in pleadings, what hinders but Bastardy may be proved by History or Argumentation after the parties death?* As, suppose in a Register-Book you find such a Bastard Christened one hundred yeares ago, may not you justly call that person a bastard, whom you find so Registered? I do answer and say, That even in that case, though it be good proof, that there was then a Bastard of that name, yet if in any Deed (or otherwayes) in the same Age you find one of that name, you are not to be too positive that that Man was that Bastard, because, there might be more persons than one of the same Name, whose Fathers might also be of the same Name each with other; and though these mistakes might easily be cleared by the party concerned whilst he was alive, yet it may be difficult

ficult sometimes to do it after he is dead: And that is (as I suppose) one reason why the Law gives no liberty to prove Bastardy against any Man after his death. But the cases of the children of *John of Gaunt by Katherine Swynford* are not like to this case. For you certainly know that they were born Bastards, but afterwards legitimated; and I think, after their legitimation, they might have had the same remedies against any that did call them Bastards, that persons lawfully born might have.

Whereas I tell you out of Sir *Henry Spelman*, that in cases of honor and profit (by the customes of *Normandy*) *appellatione filiorum non comprehenduntur bastardi*; You answer and say; *that in other cases, and formerly by the appellation of sons, bastards were comprehended, and that this makes directly against me*; But how this makes against me, in what cases soever bastards were formerly comprehended by the appellation of Sons and Daughters, if they were not comprehended in cases of *honor and profit*, I cannot tell, seeing that *Amicia* is called

led a Daughter, and that in a case of so great profit, that you will needs have it to be her whole Portion.

And whereas you mention the next words of *Spelman*, viz. that the ancient Northern people admitted bastards to succeed in their inheritance; and that William the Conquerour was not ashamed of that title, who began his Letter to Alan Earl of Little-Britaine as he did many others, *Ego Willielmus cognomen- to Bastardus.*

I do not know how you can apply those expressions to the case in hand, and if you could, they would make against you; For, when Bastard children were so much esteemed, as to be admitted to succeed in the inheritance, then certainly illegitimate Daughters would have great Portions as well as those that were legitimate; And why should not *Amicia*, if she was a Bastard, be so called, as well as *Paganus* was? (who, as you say, was the Son of *Hugh Cyveliock*) Or why should *Hugh Cyveliock* himself, be more ashamed to call her so, than *William the Conqueror* was to stile himself a Bastard?

What

What else you have said, *Page 61, 62 & 63.* hath been said over and over again by you, and hath formerly received a full Answer,

In the *64 & 65 Pages* you recite and endeavour to fortifie an Argument of mine, which I brought not as a good Argument, but compared it to one of yours, to shew the invalidity thereof; neither did I at all doubt, but that *William, Randle and Wydo* (Sons of the aforesaid *Roger Mainwaring*) were all legitimate, it being good proof thereof, that in so antient a Record, they are all three called *Sons* of the said *Roger*; But I shewed you by the Rule by which you went *viz.* that none should be believed lawfull, unless we could directly and in *terminis* prove their Fathers to be married, that the said *William, Randle, and Wido*, and most persons that lived in the First and Second Centuries might be concluded to be Bastards; And though you tell me, *that I here argue well* (which must needs be, because this Argument of mine is so like to yours) *and that you would say to*
my

my Minor, that Roger had a Wife, though we yet know not who she was; and that this appears certainly, because the Lands descended from heir to heir, and that you tell me, how you would frame your affirmative part more formally; Yet instead of trying whether you could in terminis prove (which by this your Rule you ought to do) whether William who was the eldest of the three Sons of the said Roger, was his lawful Son, or but a bastard, you beg what you should prove, and take it for granted that he was the Son and Heir, and say, that if the Son and Heir of Roger succeeded by descent in his Fathers Inheritance, then Roger had a Wife; whereas if William was the Son and Heir of Roger, the said Roger his Father must needs have a Wife, whether-soever William succeeded in the Inheritance by descent, or was disinherited; For, none but a lawful Son, can be a Son and Heir; and the same question you beg, when you pretend (p.65.) to prove the sequel of your Major. For in that Argument you say, Ergo, if the Son and Heir of Roger succeeded by descent in the Inheritance

tance, then Roger must needs have a Wife, and nothing appears here of a special settlement; But besides your begging of the Question, the only reason which you bring to prove the said *William* did succeed by descent (and by consequence that his Father was Married) is, because, nothing appears here of a special settlement; But this is not a proving certainly and in *terminis* that the said *Roger* had a Wife, for though no special settlement doth appear yet, if we must be tyed to this your way of proving, *William* might possibly be a Bastard, and might come in by special settlement, though the said settlement be now lost; So that this retorted Argument is but weakly answered.

What you say, Page 66, 67, 68 & 69, is but what you have formerly said and I have abundantly answered; and your alleading that *Amicia* being of the first ventur, is therefore more worthy than those of the second, is sufficiently confuted by those words of mine, which you repeat in your 70 Page; For though it be true that if a
 Man

Man die, and leave only Daughters, which are by several Wives, that those of the first venter, shall be more worthy than those of the second, yet if a Brother dye (as in this case) and have no issue of his own, nor any Brother, but only leave Sisters, which were by two several venters, if that Brother was of the second venter, (as *Randle Blundevile* was) then those Sisters that were of the second venter, shall be preferred before those of the first, Because, those were of the whole blood to their Brother, whereas the Sisters by the first venter were but of the half blood.

What you alleadge, *Page 71, 72 & 73*, doth not prove that *Earl Hugh's* Grant, was a Release of the Service of one Knights-Fee ; But that, and all the rest in those *Pages* (as you truly say) being nothing to the argument in hand, I will not trouble my self or the Reader therewith : Only let me observe, that there is no probability at all, but that *Sir Raph Mainwaring* had a farr greater Portion with his VVife than those Services ; For, the having

the service of three Knights-Fees, doing the service of two Knights-fees, was in effect the having the service but of one Knights-Fee, and as I told you in my former Book, was not a Portion suitable to the Estate of a very mean Gentleman ; so that it was certainly a free-gift of the said *Earl*, after the said Marriage was past and consummated; And that Grant to him is so far from proving, that he had no greater Portion, that you your self, when you are told, 'tis like he had a great deal more, do confess (*Page 71.*) *it may be so, What then?* And if it be so, that he had a greater Portion, and it doth not appear how much that Portion was, you can raise no Argument from thence, so that this your second Reason is very invalid.

Also it is very probable that the Lordship of *Henbury* in *Cheshire* might be part of the Portion of the said *Amicia* ; For as appears in your *Historical Antiquities*, *Page 107.* *Henbury* was one of those Towns which *Hugh Lupus* held in Demaine, And I do not find that any *Mainwaring* was possessed thereof, before Sir *Raph Mainwaring*,
who

who was Husband to the said *Amicia* neither have I ever yet seen or heard of any Record or Deed which shews how *Henbury* first came to the *Mainwarrings*.

And whereas you tell me, (Page 74, when you speak of your Third and last Reason) that I might have done well to have answered your first Reason better; I shall appeale to the Reader, whether your Third Reason, which you your self confess not to be evincing, be not as strong as your first, and upon the matter the same with it; as also, whether I have not given both your first and third Reasons a very full answer, in the 62, 63, 66 & 67 Pages of my former Book, and therefore it will not be taken off without better reason given by you, then your bare denying it to be a substantial Answer; So that all your three Reasons against *Amicia*, are of no weight at all.

Also, what I have there said will give full satisfaction to the Question you did please to ask, *viz. Whether I find*

find that the Historians have left out any of Earl Hughes legitimate Children, except this whom I suppose to be legitimate? For, those Historians only taking upon them to Record who were heires to Randle Blundevil; If Hugh Cyvelioke had had never so many Daughters by his former Wife, they would never have taken notice of any of them.

And whereas you observe, Page 75. How I say, that Mr. Cambden hath mentioned *Amicia*, though not among the Coheires, yet without the brand of a Bastard, and do reply, *that I know well that he is but of late standing, and not an Historian contemporary with Amicia, and that you and I do also mention her.* It is very strange that you should thus say, whereas the only reason why I did speak of Mr. Cambden, was, because, you had said, *That he was one of those Historians who had taken no notice of the said Amicia*, and I onely named him to shew you your mistake therein.

The rest which you say in the 75 & 76 Pages, is but what you have formerly

formerly said, and hath received an answer before.

In your 77, 78 & 79 Pages, you are also so far from answering that Argument of mine, which is contained between the 69 & 75 Pages of my former Book, that that which you pretend to be an Answer (if rightly understood) is the very Argument which I there frame against you; For, though what you say, Page 78. be true, that sometimes the *Justice* is put after the *Constable* and *Dapifer*, and sometimes before the *Constable* and *Dapifer*, yet all the *Justices* of *Chester*, except Sir *Ralph Mainwaring*, are named in the Charts of the Earles of *Chester*, after the *Constable* and *Dapifer*, and are also named after the *Constable* and *Dapifer*, when they were witnesses to any Deeds; But it is only in the time of the said Sir *Ralph Mainwaring*, when the *Justice* is named before the *Constable* and *Dapifer*, in the Charts of the said Earles, and it is only he who is named as a witness, and that frequently before the *Constable* and
Dapifer,

Dapifer, as I have proved by several Deeds, which I then mentioned both out of your former Book, and elsewhere, and doth also further appear by another Deed in your *Historical Antiquities*, Page 205. where the said Sir *Ralph Mainwaring* is also named as a Witness before the then *Dapifer*, *Ralph de Montealto*; And this respect was shewed to the said Sir *Ralph Mainwaring*, although, as you may see in your said Book, Page 160 & 161. that the Constable by Charter was to go next the *Earl*, and had his office in Fee, and that the Steward was to go next after the Constable, and had his Office also in Fee; But when *Philip Orreby*, who did succeed the said Sir *Ralph Mainwaring*, was Justice of *Chester*, then, according to the old usual way, as appears in the 162. Page of your First Book, the Constable and *Dapifer* were again named in the *Earles Chart*. before the Justice of *Chester*, and also as you may see at the bottom of the 144 Page, and the top of the 145 Page of your said Book, the said Constable was named

named as a Witness before *Philip de Orreby*, though then Justice of *Chester*; And I believe you cannot shew any Chart of any of the Earles of *Chester*, in which any other Justice of *Chester* had the like preeminence; neither do I think you can shew any Deeds in which any other Justice is named as a Witness before the Constable or Dapifer, and if any such single precedent can perchance be found, I am confident it will prove to be a Deed wherein the said *Philip de Orreby* is named as a Witness, and was occasioned by the simplicity of the Clark, who did write the said Deed, who finding Sir *Ralph Mainwaring* Justice of *Chester* (the immediate Predecessor of the said *Philip de Orreby*) to be written as a Witness before the Constable and Dapifer, might thereupon think that *Philip de Orreby* should also be so placed; But it appears by the aforesaid proofes, and by several other Deeds, that it was not allowed to the said *Philip*; And although you truly object, in the 78 Page, *How great the uncertainty of Subscription of*

G

Witnesses

Witnesses was in old Deeds, sometimes putting one before another in one Deed, and after putting the same person after the other in another Deed; yet, that will be nothing in this case; for, you your self confels, Page 160 & 161. of your Historical Antiquities; notwithstanding the uncertainty of Subscription of Witnesses, that after certain Offices were annexed to certain Barons, that the matter was without controversie (as to the Constable and Dapifer) and that the Constable of Cheshire in Fee carried it clear by his Office, which was annexed to his Barony, and that the Steward was the next after him; And therefore this preeminence being thus given to the said Sir Ralph, and to him onely; and he also, so farr as I have found, being ever named before all the other Barons of Cheshire, after he had Married the said Amicia, as well when he had parted with his Office of Justice, as before; I think I may still say, it will be difficult to give a Reason thereof, if he did not Marry a Lawful daughter of the aforesaid Earl.

I have now done, but cannot con-
curr with you, that the Honour of
our Grandmother (the Mother of *A-*
micia) is a *trivial thing*; However, I
am glad to Read, That you take your
leave for ever of this Controversie;
because I hope all occasion of future
Contest will be thereby taken away
betwixt You and Him who is,

S I R,

Badddeley;
August 5
1673.

Your Affectionate Kinsman
and very humble Servant

Thomas Mainwaring.

F I N I S.
